

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELVIN L. VIRGIL,

Civil Case No.:7:22-CV-3169

PLAINTIFF,

ANSWER

AGAINST

AARON FINN, Corrections Officer, ALEXANDER J.
CONSTANTINI, Corrections Officer, P. LANGDON,
Corrections Officer, JOHN DOE 1-8, Corrections
Officers, in their individual capacities,

DEFENDANTS.

The defendant, AARON FINN, for his answer to the complaint herein, by his attorneys, Cook, Kurtz & Murphy, P.C., respectfully show to the Court and allege:

I.

That he denies having knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs numbered "1" through "12", "16", "17", "18", and "21" of the complaint herein.

II.

That he denies the allegations contained in the paragraphs numbered "13", "14", "15", "19", "20" and "22" through "49" of the complaint herein.

III.

That he denies each and every allegation of the complaint not hereinbefore expressly and specifically admitted, controverted or denied.

AS AND FOR A FIRST, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON
FINN ALLEGES:

IV.

That the alleged damages sustained by the plaintiff herein were caused solely by

the conduct of the plaintiff or were contributed to by the conduct of the plaintiff or the risks were assumed by the plaintiff and if it is determined that the plaintiff is entitled to recovery, the answering defendant, Aaron Finn, demands that the verdict be apportioned in accordance with the culpable conduct attributable to the plaintiff.

AS AND FOR A SECOND, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

V.

That the defendant, Aaron Finn, is entitled to absolute and/or qualified immunity.

AS AND FOR A THIRD, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

VI.

That at all times the defendant, Aaron Finn, acted in good faith and without malice.

AS AND FOR A FOURTH, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

VII.

That the claims herein fail to state facts sufficient to constitute a valid cause of action.

AS AND FOR A FIFTH, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

VIII.

That at no time did the defendant, Aaron Finn, act with deliberate indifference to rights of the plaintiff.

AS AND FOR AN SIXTH, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

IX.

That the defendant, Aaron Finn, exercised all care reasonably necessary to prevent
and limit the deprivation and injuries claimed by plaintiff.

AS AND FOR A SEVENTH, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

X.

That this action is barred by the applicable statute of limitations.

AS AND FOR AN EIGHTH, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THE DEFENDANT, AARON FINN
ALLEGES:

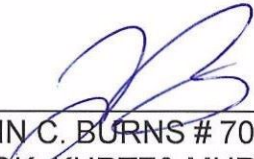
XI.

That plaintiff has failed to exhaust all administrative remedies.

DEFENDANT HEREBY DEMANDS A TRIAL BY JURY

WHEREFORE, the defendant, Aaron Finn, demands judgment dismissing the
complaint of the plaintiff, as against him, or in the alternative, diminution of damages
based on the culpable conduct of the plaintiff and judgment over against the plaintiff in an
amount to be apportioned and determined at the trial of this action, together with the costs
and disbursements of this action, and reasonable attorney's fees.

Dated: October 14, 2022



JOHN C. BURNS # 702954
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CERTIFICATE OF SERVICE

I, JOHN C. BURNS, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age, and reside at Kingston, New York 12401.

2. I hereby certify that on October 14, 2022, a true copy of the annexed ANSWER was served in the following manner:


By filing the same on ECF, by emailing the same and by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the address of the addressee(s) as indicated below:

TO: BENJAMIN WHITE, ESQ.
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